

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND,
P 19-0124)	DECISION AND
Clayton)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on July 10, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for a variance to the 20-foot front yard (west lot line) setback from Section Place Rd for the construction of a garage. The building would encroach ten (10) feet into the front yard setback.
2. The applicant is Jeffrey Clayton, 14212 SE 180th Place, Renton, WA 98058.
3. The site address of the subject parcel is Sunland Estates at 1136 North Section Place SW. It is known as Lot 10, Block 3, Sunland Estates Division #3. The site is located approximately 8 miles west of George, WA and is in the NW quarter of the NW quarter of Section 12, Township 18 North, Range 22 East, WM, Grant County, WA Parcel #05-0620-000.
4. The zoning for the subject property is Shoreline Development 4.
5. The zoning for neighboring parcels is: to the north, Shoreline Development 4, Rural Remote; to the south, Shoreline Development 4; to the east, Shoreline Development 4, Rural Remote; to the west, Shoreline Development 4.
6. The Comprehensive Plan designation for the subject property is Shoreline Development.
7. The subject parcel was reviewed for Critical Areas and was not found to be located within 300 feet of any Critical Areas as defined by Grant County Code.
8. A Public Notice containing information on this project was published in the Columbia Basin Herald on May 21, 2019, was mailed to property owners within 300 feet of the subject properties, and was posted on site, where visible to the Public.
9. Information on this project was also mailed to applicable agencies of jurisdiction for their review and comment.

10. The following agencies and County departments provided comments:
 - 10.1 Grant County Fire Marshal responded on May 17, 2019
 - 10.2 Grant County Public Works Department responded on May 20, 2019
 - 10.3 Grant County Assessor's Office responded on May 17, 2019
11. The following agencies were notified but did not respond:
 - 11.1 Grant County Building Official
 - 11.2 Grant County Health District
 - 11.3 Grant County Emergency Management
 - 11.4 Grant County Auditor
 - 11.5 Grant County Sheriff's Office
 - 11.6 Grant County Treasurer's Office
 - 11.7 Grant County Fire District #03
 - 11.8 Noxious Weed Control Board
 - 11.9 U.S. Bureau of Reclamation
 - 11.10 Quincy Columbia Basin Irrigation District
12. **Agency Comments:** The following is a summary of comments received:
 - 12.1 **Grant County Building Official:**
 - 12.1.1 No adverse comments or concerns about this project.
 - 12.2 **Grant County Assessor's Office:**
 - 12.2.2 Parcel 05-0620-000 is a 9680 square feet with a single family residence, owners are Jeffrey and Shannon Clayton; no issues.
 - 12.3 **Grant County Public Works:**
 - 12.3.1 An approach permit shall be obtained for County road access. No structure, fencing or any of their appurtenances shall be placed built or overhang into the County road Right of Way.
13. The application was determined to be technically complete on May 16, 2019.
14. This proposal was processed as a Type III Quasi Judicial Decision, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
15. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. No critical areas were found to be located within 300ft. of the project site.
16. The proposal site is not located in any UGA.
17. No public comments were received regarding this proposal.
18. Grant County Code 23.12, Table 3 requires a 20' front yard setback from the property line in the Shoreline Development 4 zone.

19. The proposed variance would be for this parcel and this structure only.
20. Staff's opinion is that the proposal as requested does conform to the criteria for approval for a variance as specified in GCC § 25.08.060(b). Staff recommended approval of the proposed variance.
21. Special conditions and circumstances exist that are peculiar to the land such that literal interpretation and application of the provisions of GCC Titles 22, 23, and 24 would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the terms of GCC Titles 22, 23, and 24 because:
 - 21.1 The lot slopes down towards the road. The terrain makes it difficult for the Applicant to find a suitable location to build under these conditions. In the hopes the variance is granted the Applicant's desire is to build a 28 x 30 garage where they can safely secure their personal items.
 - 21.2 While the lots in Sunland Estates appear similar in size, not all lots have a sloping topography. The topography of the subject parcel and the placement of the residence and drain field constructed by a previous resident create special circumstances that leave a limited buildable area for accessory structures.
22. Allowing the variance will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24 because:
 - 22.1 Granting of the proposed variance would be in harmony with the intent and spirit of GCC Titles 22, 23, and 24. The proposed structures were placed in their current locations by previous owners of the property. Additionally, allowing the variance will not approve a use which is prohibited in the Shoreline Development 4 Zoning District.
23. The variance is necessary for the preservation and enjoyment of a property right possessed by other property in the same vicinity or district, but which is denied to the property in question because of special circumstances on that property because:
 - 23.1 Due to the unusual circumstances (both terrain and property line location in front of the lot) they unfortunately do not have enough room to build the garage in the space without a variance from Grant County. If the variance is granted, the garage will be built on their property a full 21' from the edge of the road.
 - 23.2 The special circumstances of residence and drain field placement and topography on this property limit the building area on the subject parcel. There have been variances to the front setback that have been previously approved by the Board of Adjustment (File #08-5115, #09-5275, and #15-6063) as well as by the Grant County Hearing Examiner, Mr. Yedinak (File # P17-0422).
24. The special conditions and circumstances described in Criteria #1 above, are specifically related to the property and are the result of unique conditions such as specifically irregular lot shape, size, or natural feature, and the application of GCC Titles 22, 23, and 24, and not, for example, from deed restrictions or the applicant's own actions because:
 - 24.1 Due to the unique conditions naturally associated with the property, the Applicant is limited to where they can build. The slope of the property leaves them with one level space of 36 x 40 large enough to safely build on without major excavation.
 - 24.2 The natural feature of topography limits the buildable area for the proposed 30' x 30' shop. The placement of the residence and the drain field also limit the buildable area.

The residence and drain field were built and installed by a previous owner and not by the applicants themselves.

25. The granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Chapter to other lands, structure, or buildings under similar circumstances because:
 - 25.1 The Applicants are not asking for any special treatment. They are requesting relief from the required Grant County 20' set-back rule, to a 0' (10') property line setback so the garage can safely fit into the designated area. Note: If the variance is granted the front wall of the garage will be a full 21' feet from the edge of the road.
 - 25.2 In Sunland Estates there have been several variances approved regarding setbacks (P17-0422, 15-6063, 09-5275, and 08-5115). Granting of the variance requested will not confer on the persons seeking the variance any special privilege.
26. The variance requested is the minimum necessary to afford relief because:
 - 26.1 The Applicant has proposed a thirty (30) foot by thirty (30) foot garage to use for personal storage. The front setback is the minimum distances necessary to afford relief. Existing storage building at this location will be removed as stated by the Applicant which will better accommodate the location of the new garage.
27. The requested variance will not create significant impacts to critical areas and will not be materially detrimental to the public welfare, injurious to the right of other property owners in the vicinity, or contrary to the public interest because:
 - 27.1 No critical areas were found to be present on the parcel. The variance if approved would not be detrimental to public welfare, injurious to the right of adjacent property owners and would not be contrary to the public interest if it can be constructed as required by County Code, International Building Code and International Fire Code. The structure has not yet been reviewed for compliance with said codes.
28. The variance will not permit a use prohibited by GCC Title 23 in the district in which the subject property is located.
29. The entire Planning Staff file was admitted into the record at the public hearing.
30. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
31. An open record public hearing after due legal notice was held on July 10, 2019.
32. Appearing and testifying on behalf of the applicant was Jeffrey Clayton. Mr. Clayton testified that he and his wife are the property owners and applicants in this matter. Mr. Clayton testified that the garage to be built is for storage of his boat and other personal items. He stated that the lot is steep and needed to be closer to the property line in order to make the access feasible. He demonstrated to the Hearing Examiner that between the house and the road exists the septic drain field and the reserve drain field. He indicated that the shop would actually be smaller than that proposed. There exists a cement slab on the property which is where the new garage will be located. He stated that all of the proposed Conditions of Approval were acceptable.
 - 32.1 Mr. Clayton offered the following exhibits that were admitted into the record:
 - 32.1.1 Exhibits 1: Photograph of the property line looking south.
 - 32.1.2 Exhibit 2: Property Pin.

32.1.3 Exhibit 3: Photo of the property line looking north.

33. No member of the public appeared at the hearing.
34. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P 19-0124 is hereby APPROVED subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

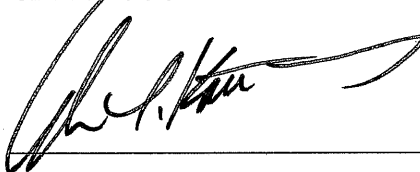
1. The landowner/applicant is responsible to determine if other permits and/or licenses will be required by other local, state, and federal agencies. The landowner/applicant shall acquire all such permits and/or licenses as required.
2. A Variance to the Development Standards as defined in GCC § 23.12 Table 3 in the Shoreline Development 4 Zoning District has been granted in order to allow only construction of a residential garage on parcel #05-0620-000 as depicted on a Site Plan submitted to the Grant County Development Services - Planning Division by the applicants on April 12, 2019. Any

further development beyond the scope of this project as proposed, including changes to the development or any requests for additional construction, shall be reviewed by the Grant County Planning Department and may require other permitting.

3. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including, but not limited to:
 - 3.1 Approach permit shall be obtained for County Road access.
 - 3.2 No structure, fencing or any of their appurtenances shall be placed, built or overhang into the County road Right of Way.
4. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including, but not limited to:
 - 4.1 The development authorized by this Variance shall be completed within five (5) years of the date of permit approval or the permit shall become null and void. An extension of up to one (1) year may be granted by the Decision Maker if the permittee demonstrates good cause for an extension.
5. This variance applies to the construction of the garage structure depicted in the site plan and allows for a ten foot (10') front setback. No other variances are authorized.

Dated this 11th day of July, 2019.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.